

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDWARD DAVIS,

Defendant.

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8:15CR247

ORDER

This matter is before the court on the motion *in limine* and request for a ***Daubert*** hearing (Filing No. 100). The defendant is jointly charged with defendants Washington and McCroy in the Indictment with the armed robbery of the Bank of the West, 8707 West Center Road, in Omaha, Nebraska on November 20, 2014 (Count I). They are also jointly charged with the brandishing and discharge of a firearm during a bank robbery in violation of 18 U.S.C. § 924(c)(1)(A) (Count II).

Davis moves *in limine* to preclude evidence of GPS location information and requests a hearing pursuant to ***Daubert v Merrell Dow Pharmaceuticals***, 113 S.Ct. 2786 (1993) (***Daubert***). The undersigned has conferred with Senior Judge Strom, and the undersigned will conduct any evidentiary hearing with a report and recommendation to Senior Judge Strom. During a hearing on February 4, 2016, Davis' counsel requested time to employ an expert to address the issue. The undersigned granted Davis time to submit an appropriate CJA Form 21 to employ an expert and gave Davis until February 19, 2016, in which to respond to the government's position that GPS evidence is not subject to a ***Daubert*** hearing. The government shall have to February 25, 2016, in which to respond. Whereupon the undersigned shall decide if a ***Daubert*** hearing is required and, if so, schedule such a hearing after consultation with counsel.

DATED this 4th day of February, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge